

**RAJAN PATEL, ESQ.**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Plaintiff,

v.

WILLIAM WRIGHT, 310 WEST 56<sup>TH</sup>  
STREET CORPORATION, BAYVIEW  
LOAN SERVICING LLC, NEW YORK  
STATE DEPARTMENT OF TAXATION  
AND FINANCE, AMERICAN EXPRESS  
CENTURION BANK, NEW YORK CITY  
DEPARTMENT OF FINANCE and JOHN  
DOES 1-10

Defendants.

ECF CASE

CIVIL ACTION NO. **07-4651 (SHS)**

**DECLARATION**

**(Document submitted for electronic filing)**

**DECLARATION OF RAJAN PATEL**

**RAJAN PATEL**, pursuant to 28 U.S.C. §1746, declares the following under penalties of perjury:

1. I am the attorney of record for Defendant, Bayview Loan Servicing, LLC (“Bayview”), and am fully familiar with the facts and circumstances of this case and as set forth below. I make this Declaration *in support* of Plaintiff’s motion for Summary Judgment.

2. Pursuant to this Court's prior Order filed on May 12, 2008, any opposition to the Plaintiff's instant motion for Summary Judgment was due "on or before June 13, 2008."

3. A review of Plaintiff's Notice of Motion and its moving papers demonstrates that Plaintiff did not move this Court to seek a formal adjudication of security interests or priorities between the defendants.

4. The scope of Plaintiff's motion is limited to an adjudication of rights between Plaintiff and defendant, tax payer, William R. Wright. In this regard, footnote number 2, on page 5 of Plaintiff's Memorandum of Law, is of significant import and reads:

"The extent and relative priority of the parties' security interests in the Apartment are beyond the scope of the instant motion; as discussed in Point II.B, *infra*, these issues will be addressed in any subsequent foreclosure by a sale of the property, **upon post-judgment motion for an order of sale to be filed by the United States** (emphasis added)."

5. In further support of the position that Plaintiff never intended to ask this Court to address issues of priority, Point three of Plaintiff's Notice of Motion may be consulted, as it reads:

". . . decreeing that the federal tax liens shall be foreclosed by a sale of the Apartment, **upon post-judgment motion for an order of sale to be filed by the United States** (emphasis added)."

6. The undersigned received a Memorandum of Law and Declaration of Maia M. Walter, counsel for defendant, 310 West 56<sup>th</sup> Street Corporation (“310 West”) this morning, June 17, 2008, which is beyond the date the Court required opposition to be filed. Said documents were electronically filed at 7:10 p.m. on June 16, 2008.

7. 310 West’s submissions oppose the Plaintiff’s motion for Summary Judgment, or in the alternative, seek an adjudication that 310 West is entitled to be repaid sums due it before Bayview is paid any funds resulting from the Plaintiff’s foreclosure of the Apartment.

8. Respectfully, the relief sought by 310 West should not be considered as “opposition” because it is non-responsive to the relief requested by Plaintiff and is outside the scope of Plaintiff’s motion, as clearly established by Plaintiff’s moving papers. Further, the submission, if anything, seems to be a cross-motion or an independent motion to address issues which Plaintiff has declared will be addressed at a later date.

9. If it assists the Court in handling this issue, Bayview hereby stipulates that all issues of priority shall be preserved and addressed when the United States makes it post-judgment motion seeking an Order of Sale of the Apartment.

9. For the foregoing reasons, Bayview respectfully requests that 310 West’s submissions be disregarded and that the Court refrain from adjudicating the priority or respective rights of Bayview and 310 West in and to any proceeds from the foreclosure of the Apartment.

**RAJAN PATEL, ESQ.**  
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By: /s Rajan Patel  
RP-4021

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Dated: June 17, 2008

**CERTIFICATION OF SERVICE**

I, Rajan Patel, a member of the Bar of this Court, hereby certify that a copy of the within Declaration was served this day upon the following parties/respective counsel, at the address and manner described below:

Attn: Joseph A. Pantoja, Esq.  
Asst. U.S. Attorney  
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Attn: Alan Gitter, Esq.  
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Attn: Maia M. Walter, Esq.  
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By: /s Rajan Patel

Dated: June 17, 2008